

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF ILLINOIS (EASTERN DIVISION)

IN RE:

Frederick Burton

Case No.: 19-13686  
Chapter: 13  
Hearing Date: 7/13/20

Debtor(s) Judge David D. Cleary

**NOTICE OF MOTION**

TO: Marilyn O Marshall, Chapter 13 Trustee, 224 South Michigan Ste 800, Chicago, IL 60604 by electronic notice through ECF  
Frederick Burton, Debtor(s), 823 S. Lombard Ave., Oak Park, IL 60304  
Rebecca McCulloch-Burton, Co-Debtor, 823 S. Lombard Ave., Oak Park, IL 60304  
David M Siegel, Attorney for Debtor(s), 790 Chaddick Drive, Wheeling, IL 60090 by electronic notice through ECF

PLEASE TAKE NOTICE that on 7/13/20, at 1:30PM, or as soon thereafter as counsel may be heard, I shall appear before the Honorable Judge David D. Cleary, Bankruptcy Judge, in the courtroom usually occupied by him/her at the Everett McKinley Dirksen Building, 219 South Dearborn, Chicago, Illinois, room 644, or before any other Bankruptcy Judge who may be sitting in his/her place and stead, and shall then and there present this Motion of the undersigned, a copy of which is attached hereto and herewith served upon you, and shall pray for the entry of an Order in compliance therewith, at which time you may appear if you so desire.

**This motion will be presented and heard telephonically.** No personal appearance in court is necessary or permitted. To appear and be heard telephonically on the motion, you must set up and use an account with Court Solutions at (917) 746-7476.

**If you object to this motion** and want it called on the presentment date above, you must file a Notice of Objection no later than two (2) business days before that date. If a Notice of Objection is timely filed, the motion will be called on the presentment date. If no Notice of Objection is timely filed, the court may grant the motion in advance without a hearing.

**PROOF OF SERVICE**

The undersigned, an attorney, hereby certifies that I have served a copy of this Notice along with the attached Motion upon the parties listed above, as to the Trustee and Debtor's attorney via electronic notice on June 26, 2020 and as to the debtor and co-debtor by causing same to be mailed in a properly addressed envelope, postage prepaid, from 7140 Monroe Street, Willowbrook, IL 60527 before the hour of 5:00 PM on June 26, 2020.

/s/ Karl Meyer  
Attorney for Movant

Berton J. Maley ARDC#6209399  
Rachael A. Stokas ARDC#6276349  
Peter C. Bastianen ARDC#6244346  
Joel P. Fonferko ARDC#6276490  
Brenda Ann Likavec ARDC#6330036  
Karl V. Meyer ARDC#6220397  
Grant W. Simmons ARDC#6330446  
**Codilis & Associates, P.C.**  
15W030 North Frontage Road, Suite 100  
Burr Ridge, IL 60527  
(630) 794-5300  
**14-17-15571**

NOTE: This law firm is a debt collector.

**CERTIFICATE OF SERVICE**

The undersigned, an attorney, hereby certifies that I have served a copy of this Notice along with the attached Motion upon the parties listed below, as to the Trustee and Debtor's attorney via electronic notice on June 26, 2020 and as to the debtor and co-debtor by causing same to be mailed in a properly addressed envelope, postage prepaid, from 7140 Monroe Street, Willowbrook, IL 60527 before the hour of 5:00 PM on June 26, 2020.

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/s/ Karl Meyer

Attorney for Movant

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**MOTION FOR RELIEF FROM THE AUTOMATIC STAY AND CO-DEBTOR STAY**

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**NOW COMES** DEUTSCHE BANK NATIONAL TRUST COMPANY, as Trustee for HOME EQUITY MORTGAGE LOAN ASSET-BACKED TRUST Series INABS 2007-A, HOME EQUITY MORTGAGE LOAN ASSET-BACKED CERTIFICATES Series INABS 2007-A, (hereinafter "Movant"), by and through its attorneys, Codilis & Associates, P.C., and moves this Honorable Court pursuant to 11 U.S.C. §362(d) and §1301(c) for an Order granting Movant relief from the automatic stay and co-debtor stay, and in support thereof states as follows:

1. This Court has jurisdiction pursuant to 28 U.S.C. §1334 and Internal Operating Procedure 15(a) of the United States District Court for the Northern District of Illinois, Eastern Division;
2. The Debtor is indebted to Movant for which the Movant claims a valid security interest in the property commonly known as 823 S Lombard Ave, Oak Park, IL 60304;
3. Enforcement of this security interest has been stayed automatically by operation of 11 U.S.C. §362 of the Bankruptcy Code upon Debtor filing of this petition on 5/13/19;
4. The Chapter 13 plan herein provides for the cure of the default of said mortgage and maintenance of current payments during the pendency of the proceeding;

5. Pursuant to the plan, Debtor(s) is/are to disburse the current monthly mortgage payments directly to Movant beginning with the first payment due after the filing of the Chapter 13 Bankruptcy (subject to periodic adjustment due to change in escrow);

6. Movant is entitled to relief from the automatic stay under 11 U.S.C. Section 362(d) for the following reasons:

- a) As of 06/09/2020, the Debtor(s) is/are past due for the 12/1/19 payment, and all amounts coming due since that date. Any payments received after this date may not be reflected in this default;
- b) As of 06/09/2020, the total post-petition default through and including 6/1/2020, is \$18,106.01, which includes a suspense credit of \$790.50. Any payments received after this date may not be reflected in this default. This amount includes post-petition attorney fees in the amount of \$1,550.00;
- c) On 07/01/2020, the default will increase to \$20,814.89, and will continue to increase as additional amounts become due;

7. Said failure to make post-petition mortgage payments is sufficient grounds for relief from the automatic stay for cause pursuant to 11 U.S.C. Section 362(d)(1);

8. This Court has authority to order that Rule 4001(a)(3) is not applicable to the order entered in granting this motion, and Movant requests this Court so order;

9. Movant has incurred attorney fees and/or costs in connection with this bankruptcy proceeding:

\$1,050.00 for Preparation of Notice and Motion for Relief from the Automatic Stay, and prosecution of same

\$181.00 for Court filing fee

\$150.00 for Plan Review

\$500.00 for Objection to Confirmation

\$150.00 for Post Petition Fee Notice

\$500.00 for Proof of Claim

\$250.00 for POC Pay History Preparation

10. PHH Mortgage Corporation services the underlying mortgage loan and note for the property referenced in this Motion for Relief for DEUTSCHE BANK NATIONAL TRUST COMPANY, as Trustee for HOME EQUITY MORTGAGE LOAN ASSET-BACKED TRUST Series INABS 2007-A, HOME EQUITY MORTGAGE LOAN ASSET-BACKED CERTIFICATES Series INABS 2007-A (the noteholder) and is entitled to proceed accordingly. Should the Automatic Stay be lifted and/or set aside by Order of this Court or if this case is dismissed or if the debtor obtains a discharge and a foreclosure action is commenced or recommenced, said foreclosure action will be conducted in the name of DEUTSCHE BANK NATIONAL TRUST COMPANY, as Trustee for HOME EQUITY MORTGAGE LOAN ASSET-BACKED TRUST Series INABS 2007-A, HOME EQUITY MORTGAGE LOAN ASSET-BACKED CERTIFICATES Series INABS 2007-A (the noteholder). DEUTSCHE BANK NATIONAL TRUST COMPANY, as Trustee for HOME EQUITY MORTGAGE LOAN ASSET-BACKED TRUST Series INABS 2007-A, HOME EQUITY MORTGAGE LOAN ASSET-BACKED CERTIFICATES Series INABS 2007-A (the noteholder) has the right to foreclose because: Noteholder is the original mortgagee or beneficiary or assignee of the security instrument for the referenced loan. Noteholder directly or through an agent has possession of the promissory note and the promissory note is either made payable to Noteholder or has been duly endorsed.

11. That the subject note and mortgage are co-signed by Rebecca McCulloch-Burton and that to the extent that the co-debtor stay of 11 U.S.C. §1301 applies to real estate loans, it applies to Rebecca McCulloch-Burton and grounds exist for relief therefrom under 11 U.S.C. §1301(c)(1) as the co-debtor received an ownership interest in the house and under 11 U.S.C. §1301(c)(3) if the automatic stay is modified therein;

**WHEREFORE**, DEUTSCHE BANK NATIONAL TRUST COMPANY, as Trustee for HOME EQUITY MORTGAGE LOAN ASSET-BACKED TRUST Series INABS 2007-A, HOME EQUITY MORTGAGE LOAN ASSET-BACKED CERTIFICATES Series INABS 2007-A prays this Court enter an Order pursuant to 11 U.S.C. Section 362(d) and Section 1301(c) modifying the automatic stay and co-debtor stay as to Movant, allowing the fees and costs described herein to be added to the indebtedness pursuant to the terms of the note and mortgage, and for such other and further relief as this Court may deem just and proper.

Dated this June 26, 2020.

Respectfully Submitted,

Codilis & Associates, P.C.

By: /s/ Karl Meyer

Berton J. Maley ARDC#6209399  
Rachael A. Stokas ARDC#6276349  
Peter C. Bastianen ARDC#6244346  
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